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DEPARTMENT OF COMMERCE

International Trade Administration

[A-583-848]

Certain Stilbenic Optical Brightening Agents from Taiwan: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: [Insert date of publication in the Federal Register.]

SUMMARY: Based on affirmative final determinations by the Department of Commerce (the Department) and the International Trade Commission (ITC), the Department is issuing an antidumping duty order on certain stilbenic optical brightening agents (stilbenic OBAs) from Taiwan. In addition, the Department is amending its final determination to correct a ministerial error.

FOR FURTHER INFORMATION CONTACT: Sandra Stewart or Minoo Hatten, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-0768 or (202) 482-1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended (the Act), on March 23, 2012, the Department published the final determination of sales at less than fair

value in the antidumping duty investigation of stilbenic OBAs from Taiwan.¹ On May 2, 2012, the ITC notified the Department of its affirmative determination of material injury to a U.S. industry.²

Scope of the Order

The stilbenic OBAs covered by this order are all forms (whether free acid or salt) of compounds known as triazinylaminostilbenes (*i.e.*, all derivatives of 4,4'-bis [1,3,5- triazin-2-yl]³ amino-2,2'-stilbenedisulfonic acid), except for compounds listed in the following paragraph. The stilbenic OBAs covered by this order include final stilbenic OBA products, as well as intermediate products that are themselves triazinylaminostilbenes produced during the synthesis of stilbenic OBA products.

Excluded from this order are all forms of 4,4'-bis[4-anilino-6-morpholino-1,3,5-triazin-2-yl]⁴ amino-2,2'-stilbenedisulfonic acid, C₄₀H₄₀N₁₂O₈S₂ ("Fluorescent Brightener 71"). This order covers the above-described compounds in any state (including but not limited to powder, slurry, or solution), of any concentrations of active stilbenic OBA ingredient, as well as any compositions regardless of additives (*i.e.*, mixtures or blends, whether of stilbenic OBAs with each other, or of stilbenic OBAs with additives that are not stilbenic OBAs), and in any type of packaging.

These stilbenic OBAs are classifiable under subheading 3204.20.8000 of the Harmonized Tariff Schedule of the United States (HTSUS), but they may also enter under subheadings 2933.69.6050, 2921.59.4000 and 2921.59.8090. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

¹ See *Certain Stilbenic Optical Brightening Agents From Taiwan: Final Determination of Sales at Less Than Fair Value*, 77 FR 17027 (March 23, 2012) (*Final Determination*).

² See *Certain Stilbenic Optical Brightening Agents from China and Taiwan*, USITC Investigation Nos. 731-TA-1186 and 731-TA-1187 (Final), USITC Publication 4322 (May 2012).

³ The brackets in this sentence are part of the chemical formula.

⁴ *Id.*

Amendment to the *Final Determination*

On March 23, 2012, the Department published its affirmative final determination in this proceeding.⁵ On March 27, 2012, Clariant Corporation (the petitioner), submitted a timely ministerial error allegation and requested that the Department correct the alleged ministerial error in the dumping margin calculation. The respondent, Teh Fong Min International Co., Ltd. (TFM) did not submit a ministerial error allegation or rebuttal comments.

After analyzing the petitioner's comments, we have determined, in accordance with section 735(e) of the Act and 19 CFR 351.224(e), that we made a ministerial error in our calculation for the *Final Determination* with respect to TFM. Specifically, we did not use TFM's revised U.S. sales database for our dumping margin calculation. For a detailed discussion of the alleged ministerial error, as well as the Department's analysis, see Memorandum to Paul Piquado, Assistant Secretary for Import Administration, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled, "Ministerial Error Allegation in the Final Determination of the Antidumping Duty Investigation of Certain Stilbenic Optical Brightening Agents from Taiwan: Teh Fong Min International Co., Ltd.," dated April 23, 2012.⁶

In the *Final Determination*, pursuant to section 735(c)(5)(A) of the Act, we determined the estimated all others rate to be equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated. Because TFM is the only respondent in this investigation for which the Department calculated a company-specific rate, we determined the all others rate to be the weighted-average dumping margin calculated for

⁵ See *Final Determination*.

⁶ See also Memorandum to the file entitled, "Allegation of Ministerial Error in the Antidumping Duty Investigation of Certain Stilbenic Optical Brightening Agents from Taiwan: Analysis Memorandum for Teh Fong Min International Co., Ltd. With Respect to the Ministerial Error in the Final Determination," dated April 23, 2012.

TFM.⁷ Because the weighted-average dumping margin for TFM changed as a result of the aforementioned ministerial error, we have amended the all others rate accordingly. The amended weighted-average dumping margins are provided below.

Antidumping Duty Order

As stated above, on May 2, 2012, in accordance with section 735(d) of the Act, the ITC notified the Department of its final determination in this investigation, in which it found material injury with respect to stilbenic OBAs from Taiwan. Because the ITC determined that imports of stilbenic OBAs from Taiwan are materially injuring a U.S. industry, all unliquidated entries of such merchandise from Taiwan, entered or withdrawn from warehouse, are subject to the assessment of antidumping duties.

Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise, for all relevant entries of stilbenic OBAs from Taiwan. These antidumping duties will be assessed on unliquidated entries from Taiwan entered, or withdrawn from warehouse, for consumption on or after November 3, 2011, the date on which the Department published its preliminary determination,⁸ but will not include entries occurring after the expiration of the provisional measures period and before publication of the ITC's final injury determination as further described below.

⁷ See *Final Determination*.

⁸ See *Certain Stilbenic Optical Brightening Agents from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 76 FR 68154 (November 3, 2011) (*Preliminary Determination*).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we will instruct CBP to continue to suspend liquidation on all entries of stilbenic OBAs from Taiwan. We will also instruct CBP to require cash deposits equal to the estimated amount by which the normal value exceeds the U.S. price as indicated below. These instructions suspending liquidation will remain in effect until further notice.

Accordingly, effective on the date of publication of the ITC's final affirmative injury determination, CBP will require, at the same time as importers would normally deposit estimated duties on this subject merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins listed below. *See* section 736(a)(3) of the Act.

Provisional Measures

Section 733(d) of the Act states that instructions issued pursuant to an affirmative preliminary determination may not remain in effect for more than four months except where exporters representing a significant proportion of exports of the subject merchandise request the Department to extend that four-month period to no more than six months. At the request of exporters that account for a significant proportion of exports of stilbenic OBAs from Taiwan, we extended the four-month period to no more than six months.⁹ In the underlying investigation, the Department published the *Preliminary Determination* on November 3, 2011.¹⁰ Therefore, the six-month period beginning on the date of the publication of the *Preliminary Determination* ended on May 1, 2012. Furthermore, section 737(b) of the Act states that definitive duties are to begin on the date of publication of the ITC's final injury determination.

⁹ *Id.*

¹⁰ *Id.*

Therefore, in accordance with section 733(d) of the Act and our practice, we will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of stilbenic OBAs from Taiwan entered, or withdrawn from warehouse, for consumption after May 1, 2012, the date provisional measures expired, and through the day preceding the date of publication of the ITC's final injury determination in the *Federal Register*. Suspension of liquidation will resume on and after the date of publication of the ITC's final injury determination in the *Federal Register*.

The weighted-average dumping margins are as follows:

<u>Manufacturer/Exporter</u>	<u>Weighted-Average Margin (Percent)</u>
Teh Fong Min International Co., Ltd.	6.19
All Others	6.19

This notice constitutes the antidumping duty order with respect to stilbenic OBAs from Taiwan pursuant to section 736(a) of the Act. Interested parties may contact the Department's Central Records Unit, Room 7043 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order and amended final determination are published in accordance with sections 736(a) and 735(e) of the Act and 19 CFR 351.211 and 351.224(e).

Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration

__May 3, 2012_____
Date

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